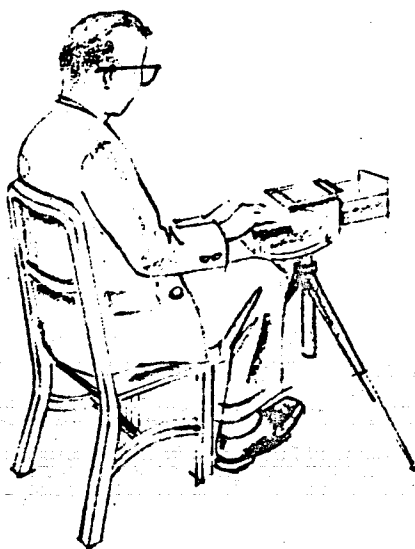


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# STENOTYPE TRANSCRIPT OF PRESS CONFERENCE



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PRESS BRIEFING

BY

ROBERT F. KENNEDY,  
THE ATTORNEY GENERAL OF THE UNITED STATES

AND

BURKE MARSHALL,  
ASSISTANT ATTORNEY GENERAL

- - -

Department of Justice

Washington, D. C.

- - -

FRIDAY, MAY 10, 1963

6:30 P.M.

- - -

THE ATTORNEY GENERAL: Burke just got back from Birmingham in the last hour or so, and he went down -- I don't know what day -- I guess Friday or Saturday --

MR. MARSHALL: Saturday morning.

THE ATTORNEY GENERAL: -- with Joe Dolan, who was involved in the matter down there, which he will discuss with you, but I talked to a number of the financial leaders of Birmingham today who were involved in making some of these decisions, as well as the Negroes, and they were all universal in praise for the work that he did, including Martin Luther King and those who negotiated with Martin Luther King, and all were unanimous that if he hadn't been there to bring them

together they wouldn't have arrived at the place that they arrived at according to the announcement at five o'clock this afternoon, that they couldn't have had the agreement that was made.

The agreement was made by local people through local efforts and willingness of local people to do these things, but I think, as I say, it is the unanimous feeling on both sides that if it hadn't been for his efforts and the work that he did it wouldn't have been possible. We couldn't have gotten the people to sit down, couldn't have gotten the people to exchange their views, couldn't have gotten an agreement, and the situation in Birmingham would be far different tonight than it is at the present time.

So I think he has performed a real function for Alabama, and Birmingham, and our people. With that, if any of you have any questions, he would be glad to answer them.

QUESTION: I believe he said he was going to make a statement for the record.

QUESTION: Were these remarks just now, Mr. Attorney General, on the record?

THE ATTORNEY GENERAL: Will it cause any difficulty in Birmingham? I will have to ask you.

QUESTION: Put them on the record.

THE ATTORNEY GENERAL: I will think about it during the course of the period of time.

MR. MARSHALL: Yes. I think the important thing is that, however helpful it was for us to be down there, the settlement that was reached was reached by the people down there. It couldn't have been reached by anyone else. And I think that for a city like Birmingham, that has a history of bad race relations, to have reached this kind of a community of understanding really over the course of a few hours in a severe racial crisis, is a tremendous step forward for Birmingham, and for Alabama, and for the South generally.

QUESTION: Could this have any ameliorating effect upon the situation that is coming up at the University?

MR. MARSHALL: Now am I into background or what?

THE ATTORNEY GENERAL: Yes, it is background.

QUESTION: I assume so.

MR. MARSHALL: The problem at the University is not a problem really of the people of Alabama or the people at the University; it is purely a problem of the Governor. It is all up to the Governor. It is all up to one man. If he wants to subject the University to economic, and social, and other interests of the State to irreparable, or at least long-standing, damage just by creating an incident at the University I suppose he can do it, but it is peculiarly up to one man.

I don't think there is any great, surging call by the people of Alabama for that kind of action. I don't know what effect this will have on it. The Governor doesn't like this

settlement.

QUESTION: He does not?

MR. MARSHALL: No, I don't believe so.

QUESTION: Mr. Marshall, how close did the situation come in Birmingham to the Governor stepping in with State authority?

MR. MARSHALL: I would say a day. I would say it was very close.

QUESTION: Could you pinpoint it, on which day?

MR. MARSHALL: The demonstrations stopped -- this is Friday -- on Wednesday. If they had gone on on Wednesday, I don't know whether we could have gotten through Wednesday, with full scale demonstrations, without the Governor stepping in and taking over.

QUESTION: What would that have involved, stepping in?

MR. MARSHALL: The National Guard, military.

QUESTION: Was that one of the arguments that you had to deal with in your efforts, the desire on both sides to keep the State from doing that?

MR. MARSHALL: I think the severity of the situation on not only on Tuesday, but on Monday, on Saturday, and on Friday brought home to everybody the need for reaching some sort of understanding.

I don't know, but I suppose the possibility of the

Governor coming in affected a lot of people.

QUESTION: Burke, could you give us a play by play of what happened after you got down there, whom you talked with?

MR. MARSHALL: Well, I don't think I can get into whom I talked with.

QUESTION: You don't have to identify them by name; just types of people. American types of things that seemed to be effective.

MR. MARSHALL: The problem on Friday a week ago was that no one in Birmingham knew what the Negroes wanted because there was no real channel of communication open at all between the Negro leaders and anyone in the city, and so there were these demonstrations going on and a very massive scale and really nobody knew what they were about.

I don't think most of the demonstrators knew what they were about and I don't think that any of the white people knew what to do about it in the sense of what demands were being made that could be satisfied, so it was a very frustrating situation.

THE ATTORNEY GENERAL: It is really a key point because originally when we got involved nobody knew whether the demonstrators were demonstrating against the city because of these ordinances, or against the Government, or trying to get something for the city to do.

It was even as basic as that. So in fact there wasn't even a discussion, or conversation, or dialogue back and forth.

QUESTION: Was there a demand?

MR. MARSHALL: Not really, no. The first thing I did on Friday over the telephone was to try to find out what they wanted and then try to communicate to the white people that were involved what they wanted, what it was.

QUESTION: Did what they want come as a surprise to the white community?

MR. MARSHALL: Well, I don't think that they really concentrated on anything except the existence of demonstrations in the white community. I think that was the problem. There were a lot of demonstrations and there was the danger of violence resulting from that, and they were thinking about that fact and not what caused the demonstrations, and they concentrated on the leader and the fact that Martin Luther King wasn't from Birmingham and he was from outside the city, and they thought about that in emotional terms as if it were all purely a question of outside agitators and not a result of the situation in Birmingham itself, so they didn't I don't think, at that point think about what needed to be satisfied.

They thought, of course, in terms of a police situation.

QUESTION: After you conveyed these needs or these

desires to the white community, were they resistant at first to granting them?

MR. MARSHALL: Well, I think there was a general development of recognition of the need to do something to meet the needs of the Negroes and not just to try to arrest everybody in sight and get Martin Luther King out of town.

I think that was just a growing recognition between Saturday morning and Tuesday afternoon when the situation really broke.

QUESTION: Burke, as of Friday, were the Negroes communicating about what they wanted?

MR. MARSHALL: I wouldn't think so. I think it had been pretty vague most of the time.

QUESTION: What was the general attitude towards you as a negotiator?

MR. MARSHALL: I think that everyone I saw was really glad to have sort of a catalyst there to help them out. They didn't know what to do. They didn't have any channel of communications open.

No, there wasn't any resentment, in other words.

QUESTION: I wasn't thinking of that. Were you welcome?

MR. MARSHALL: Yes, I think so. I think the situation was very unwieldy, but I think they wanted to do something about it. I think so, yes.



QUESTION: If I may inject again, I got a call a couple of hours before he got there as to whether he was going to get there and they were anxious for him to get there.

THE ATTORNEY GENERAL: I might say there were suggestions before he went down by some leaders in the community that it would be helpful if he went down, and before he left we made sure that they would like him to come, and those who were intimately involved in the matter and had a good deal of responsibility in the community urged that he come down. That includes some very important people.

QUESTION: Leaders on both sides?

THE ATTORNEY GENERAL: No; the people on the white side.

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QUESTION: Was that initiated by them, or in response to an offer by you?

THE ATTORNEY GENERAL: No, I think we had had conversations once the demonstrations began and we were talking back and forth, and I don't know how it came up, but in the course of this it was felt that it would be helpful if Mr. Marshall came down.

QUESTION: Mr. Marshall, if they had not had this present difficulty between who was in authority, governmental authority down there, if Commissioner Conner were were not still in power, would your task have been easier?

MR. MARSHALL: You mean if the new city government was already there?

QUESTION: Yes.

MR. MARSHALL: Well, the situation would have been so different you can't tell. In a way the ambiguity of having two governments down there made it easier on all the political officials of the city. They sort of couldn't take any position, and so in a way that made it easier for me, I think.

QUESTION: Easier for them to evade the responsibility?

MR. MARSHALL: Easier for them to attack the negotiations.

QUESTION: What do you think the effect would be on the agreement announced today if the Alabama Supreme Court would declare Conner and his group still in office?

MR. MARSHALL: Well, I think that it would make it more difficult for everybody, but it wouldn't upset it.

QUESTION: Do you think the stores would go ahead?

MR. MARSHALL: Yes, I think so. Conner said himself that he wouldn't interfere with the stores if they wished to serve Negroes. He put it in a rather unfriendly fashion, but that is what he said.

QUESTION: Could you tell us what the rest of your role was? You said the first thing you did was to find out, on the telephone what the desires of Negroes were and to try to communicate those to the Whites. What were the rest of your actions?

MR. MARSHALL: Then I suggested to some people down there that they ought to get together, the immediate group involved, which were the store owners, and tell them what the Negroes wanted, to see if they wanted to move towards meeting, and so they met on that and then I arranged for a group of local Negroes to start talking about what they wanted and that started negotiations on Saturday.

QUESTION: Talking with the store owners?

MR. MARSHALL: Yes.

QUESTION: Was this a private home or what?

MR. MARSHALL: I don't think I better get into that.

QUESTION: Do you think the danger of explosion is now past, or could there be another crises when integration

begins?

MR. MATSHALL: Well, Birmingham has a long history of very deep racial problems and there is a great deal of resentment and a lot of people are awfully emotional about it. It is something that everyone down there has to continue to work on awfully carefully. It is not an easy thing to do. It is not an easy thing to do even once the settlement is reached. It has to be done carefully.

QUESTION: Do you think weathering the crisis of the past week is going to make it less likely that there will be an explosion later?

MR. MARSHALL: Oh, yes.

QUESTION: In that connection it is obvious in Atlanta there were present at least some hard feelings, which made for the situation that prevailed in Atlanta, but what has been absent in Birmingham over the years? Has there been no leadership around which moderate men could rally?

MR. MARSHALL: That is right.

QUESTION: What is the missing element?

MR. MARSHALL: That is it. There had been until about a year and a half ago virtually no moderate leadership and even then when it started it was not open.

QUESTION: In the use of police dogs, fire hoses, and so forth, was there no violation of civil rights?

MR. MARSHALL: Well, there were some instances of

policemen that I think we are going to investigate, but there isn't any general violation of civil rights, no, in the police dogs. They use them in many cities. I think it is a very bad practice.

QUESTION: You mean some individual policemen may have violated some rights.

MR. MARSHALL: Yes.

QUESTION: And this Department will investigate?

MR. MARSHALL: Yes.

For example, Dick Gregory charges that he was beaten by some officers in the jailing and we are investigating that.

QUESTION : How many policemen would be involved?

MR. MARSHALL: There aren't too many who are charged with that.

THE ATTORNEY GENERAL: A lot of the people and policemen and the people in the sheriff's office acted very well and handled themselves very well and kept their heads and used very good judgment.

QUESTION: How does that fall under a Federal jurisdiction?

MR. MARSHALL: There are two of the reconstruction statutes that deal with police brutality basically. Over the course of years they have come to deal with police brutality.

is Sections 241 and 242 of Title 18.

QUESTION: What were those sections?

THE ATTORNEY GENERAL: 241 and 242 of Title 18.

QUESTION: In candor, did Gregory's presence help or hinder?

MR. MARSHALL: I don't think it had any effect one way or the other.

QUESTION: Mr. Marshall, this is probably an unfair question, but could you assess what has all this trouble meant in terms of getting the vote for the Negro down there?

THE ATTORNEY GENERAL: I think in fairness to Dick Gregory it indicates that to the Negroes his interests and his commitment, and his cause and he has been associated with it, so that although you can't say Dick Gregory coming down and getting involved in it made a difference in the result there, it indicated to the Negroes there and the Negroes around the country that there were people who were in important positions in the Negro community that were vitally concerned with the future of the people, so I didn't want it to go out that Dick Gregory means nothing to them.

MR. MARSHALL: It is a moral factor particularly in jails.

QUESTION: When did the Negroes crystalize any demands?

My question, please.

MR. MARSHALL: What was the question again?

QUESTION: In the firm analysis, what has this meant in terms of votes for the Negro, all this trouble down there?

MR. MARSHALL: Votes for the Negro?

QUESTION: Yes. I mean ability to register.

MR. MARSHALL: Well, I think now that this matter is settled, at least settled for the present, anyway, that a lot of the energies, and enthusiasm and new spirit that has been in the Negroes down in Birmingham as a result of all this is going to be channeled into the voter registration. That is very healthy if it works that way. I think there is an intention to do that.

QUESTION: After you got negotiations started, as you said before, got the two sides to meet, and wherever it was, what did you do then?

MR. MARSHALL: Well, there were a number of meetings and as it progressed it became necessary to have the backing of a much larger segment of the business and economic community down there so the meetings grew and it just progressed from meeting to meeting.

QUESTION: I meant what did you do in the meetings? Did you actually take an active part in the meetings themselves?

MR. MARSHALL: Yes. Well, I tried to be helpful --

QUESTION: Were you the chairman?

MR. MARSHALL: No, no.

QUESTION: Who conducted the meetings, Mr. Marshall?

MR. MARSHALL: There were a number of them and some were not conducted by anyone and some were. Some were formal.

QUESTION: Where did they have them?

MR. MARSHALL: Where?

QUESTION: Yes, sir.

MR. MARSHALL: They were held in different places.

I mean there were meetings of businessmen that were all white. Then there were bi-racial negotiations meetings. I had a number of meetings, along with a few other people with some of the leaders. Dr. King didn't participate directly in negotiations, for example. Negotiations were between local Negroes and local white people.

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QUESTION: Was there any talk about the charge that Reverend Shuttlesworth made a couple of weeks ago when he was here when he said that a year and a half ago he had met with the community leaders there and they had developed a program around which they were going to work, that white community there reneged on the results of this?

MR. MARSHALL: I don't know. That is what Fred Shuttlesworth said, and the whites deny that there was any breach of the agreement, and, see, if you have a meeting and you discuss nothing except what happened nine months ago you don't get any where, so that that was one of the problems in getting anywhere, but my feeling about that issue is that it was a waste of time to discuss it, that what you ought to discuss in negotiations like this is the immediate situation and not what happened months ago, so there was a lot of talk about that, but I never thought it was very fruitful talk, and they finally got over the bitterness that those charges and countercharges engendered.

QUESTION: Do you think that this agreement could have been reached by any other method than by demonstration?

MR. MARSHALL: The agreement that was reached?

QUESTION: Yes.

MR. MARSHALL: I think that the city of Birmingham, speaking generally, and I mean business leaders, the new city government, which of course hasn't take office -- at least its

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right to office is still under litigation -- had made a lot of plans for programs that involved dealing with the racial situation in Birmingham, particularly because there is a school suit there, so that I think that the city was prepared to take steps.

I don't know that the city was prepared to take these steps at this time, so I think the demonstrations probably speeded up the process a lot and in that sense accomplished something.

QUESTION: You said when you arrived there there was an absence of moderate leadership.

MR. MARSHALL: No, no, no, no. I didn't say that. No; I said there was a lack of communication and that in the past over the history of years in Birmingham, there had been a lack of moderate leadership, but I don't mean moderate leadership appeared from no where on a Saturday morning.

It had been functioning for the past year and a half.

QUESTION: You said it began to develop for a year and a half?

MR. MARSHALL: Yes.

QUESTION: Does that mean through the new Mayor's group? Is that what you mean by the new moderate leadership?

MR. MARSHALL: No, no; within the businessmen.

THE ATTORNEY GENERAL: And the efforts of the

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newspapers.

MR. MARSHALL: And the efforts of the newspapers.

QUESTION: When you talked to the white leaders, I suppose there was always the fear on their part that the State would move in, but can you describe for us what was your argument about, why it was in their interest to come to an agreement? What was your clout in this situation?

MR. MARSHALL: Well, as I say, there is a tendency for the people in southern cities quite often, where they haven't really faced up to this problem, to blame demonstrations, and unrest, and racial strife on particular leaders and think that the whole problem will go away if the leaders go away, which isn't true, and so I think, as in all these cases, that what they have to do is look at something to alleviate the problem and not just complain about the leaders of the Negroes, so that was a basic point, I think, to get across.

QUESTION: May I just follow this up? Did you ever use the economic approach?

MR. MARSHALL: They had a choice. They could either do something or they could fight. Now, if they fought, obviously, I think, by Saturday, and it became even clearer as Monday and Tuesday came along, they were going to end up with the military in the city, and suppression, and a black eye throughout the world as throughout the country.

THE ATTORNEY GENERAL: Real violence.

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MR. MARSHALL: Violence, and as far as the economic development of the city is concerned, getting people to move down there and new business and new management, or young executives or anything that you want to have a city grow, would set it back for at least a decade, probably more, immeasurably set it back, so that the alternatives were to do something about the needs which were real, or else just to ruin the city; at least, I think so.

QUESTION: How does the Department feel about the tactics used in this case in which a city ordinance was violated to gain some goals that the Negroes wanted and which threatened and hung over the head of the city that if the city did not agree, future law violations would continue?

MR. MARSHALL: It is awfully difficult. What the Negroes were doing basically, of course, basically, were protesting the situation, and the situation that they were protesting should be protested.

They were denied Constitutional rights. They were denied their basic rights of human dignity. They were allowed to go in and buy things in stores and not allowed to eat in the stores and spend their money, not work in stores; to the situation was unjust.

When the demonstrations started in Birmingham, even though they were not large scale demonstrations, they were picketing in a rather small protest. All those were throttled,

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in the sense that the picketers were immediately arrested and there is no outlet, so that it isn't as simple as saying that there was a violation of a city ordinance and the threat of continuing to violate local laws. It was a basic protest.

QUESTION: Was there any vocal recognition by people you talked to of these denials which you have just enumerated, or was the solution based strictly on one of economic disadvantages to the city?

MR. MARSHALL: No; I think that the economic disadvantage to the city played a big part, but I don't think that's all there was to it.

QUESTION: But you think that was secondary to recognition by the city fathers of a denial of Constitutional rights to these Negroes?

MR. MARSHALL: I don't think you can generalize. I think different city fathers felt different about it and one motive was higher in some of their minds than the other, but I think there was a basic recognition by a lot of people down there when they thought about it and got off the idea that people were coming in from the outside and stirring up trouble, once they got off of that thought and thought about the situation, I think that there was a recognition that the Negroes there were really demanding something that wasn't so unreasonable, to have a cup of coffee at a lunch counter or work in a store where they spend a lot of money all the time,

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job opportunities.

I think there is a universal recognition of the economic needs by these business leaders. That is something very easy to understand and a lot of them are covered by President Kennedy's order on employment, anyway, so that they had some appreciation of those things.

QUESTION: Do you and the Attorney General still think in view of the end result that it was wrong for King to employ mass demonstrations?

MR. MARSHALL: I didn't say I thought it was wrong in the first place.

QUESTION: It has been my impression that the Attorney General thought the whole strategy was wrong, that it was pushing too hard. Would you still say that was true?

THE ATTORNEY GENERAL: I said I thought the timing was questionable because of the fact that the new city government was coming in.

MR. MARSHALL: You see, these demonstrations started the day after election of the new city government, so it did start at a time in which the new city government hadn't had a chance to take office and hadn't had a chance to even have presentations made to them.

QUESTION: What is the possibility that these tactics will be used elsewhere?

MR. MARSHALL: I think there is a good possibility.

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QUESTION: Did you say that Dr. King wasn't present at any of these meetings, and whose idea was this? Was this his own idea, or perhaps your idea, or whose idea?

MR. MARSHALL: No, I didn't say he wasn't present at any of the meetings. I am sorry. I said there were lots of different kinds of meetings and some were all white, and some were all Negro, and some were negotiating by racial committees, and some were basically the Negro leaders with just a very few white people.

QUESTION: What I am getting at is was he present at any of the meetings with the white leaders in Birmingham?

MR. MARSHALL: He was not present at basic negotiating meetings between the white business leaders and the Negroes. Those were between local Negroes and local white people.

QUESTION: Mr. Marshall, I am confused about two things which seem to be still hanging. Are the sentences still applicable to the Negroes who were released from jail? That is one point. And what is going to happen to the school children? Are they going to be taken back under suspension, or are they going to be dismissed? Are those things resolved?

MR. MARSHALL: The answer first is "yes", that the sentences have been set aside. That was the question?

QUESTION: Yes.

MR. MARSHALL: And the answer to the second question is that that is not clear yet.

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QUESTION: Are the mothers a key factor in this? Do they take it very strongly if their children are not permitted back without prejudice?

MR. MARSHALL: It is awfully hard for me to answer. I would think so. I would think that they feel strongly about it, but there is no basis for me. I mean you have as good a judgment on that as I have.

QUESTION: The reason I ask is because the Board of Education sought an injunction against Reverend Shuttlesworth this afternoon.

MR. MARSHALL: Yes.

QUESTION: I understand there could be a real bone of contention if this is not settled in an amicable way.

MR. MARSHALL: No, I think it is a problem.

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QUESTION: When did the Negroes come up with the four points and when were they presented to the White leaders?

MR. MARSHALL: I am not sure. I mean the times so run into each other I am not sure. I think on Monday those four points in mimeographed form.

It may have been on Saturday.

QUESTION: Are you going back, Mr. Marshall?

MR. MARSHALL: I may go back for a day.

QUESTION: Is Mr. Dolan going with you?

MR. MARSHALL: He is still down there. He will come back tomorrow.

QUESTION: Thank you, Mr. Marshall.

QUESTION: Did you decide about your statement?

THE ATTORNEY GENERAL: Yes. I just think it is all right to emphasize and cover what Mr. Marshall said, to emphasize what he said at the beginning that this couldn't be done except for the fact that you had negroes and white people, both of good will, who are willing to sit down and get this thing discussed, and usually demonstrations gave emphasis to this.

QUESTION: You mean we can quote you and quote him on that?

THE ATTORNEY GENERAL: Mr. Marshall and I got into the details of his trip down there. I would think what struck both of us and really struck anybody who had any

association or identification with this at all was the fact that people were prepared to sit down and try to get these things resolved. There is a lesson that can be learned in other communities, whether it is in the North or the South as to the importance of this and that the alternative is going to be great violence and it is going to be turning these matters over to extremists on both sides, the ones that think Negroes shouldn't wear a tie and that can't discuss them without using a swear word, and those on the other side think that white people have mistreated Negroes for such a long period of time that violence should be used against them.

QUESTION: I wonder if I could ask one more question.

MR. MARSHALL: Yes. I just want to finish this point because I think that the important thing is really we are going to have more of these problems in the future and the important thing is not just what Mr. Marshall did in Birmingham or the fact that they have peace there, but what it is going to mean for the rest of the country over the period of the next decade, and the next 12 months, really. All of us in all sections of the country have great lessons to learn in the importance of getting a dialogue going between the people in the North and the South, the people in the South and that picture in the papers of a Negro attacking a dog and

the policeman with a knife and with a bottle, and they don't show that picture up in the Noarth. They show the picture of the dog attacking the Negro, so the result is you are not really almost talking about the same thing on the same platform and we really have to start having greater exchanges, and greater meetings, and points of view so that a Southern Senator can talk to Mr. Marshall, the Attorney General or Southern Governor, and not lose votes for him, and a white democratic politician can say something nice about some Southern leader and not feel that that is going to lose him the next election. That is in our judgment what is missing at the present time, in the United States.

QUESTION: Can we get this straight? Are we on the record?

QUESTION: This last one about Mr. Marshall?

THE ATTORNEY GENERAL: The first statement. All the nice things about Mr. Marshall are on the record.

QUESTION: I understand that, but are you going on to tell us you don't want to emphasize only that, but the importance of conversation together.

THE ATTORNEY GENERAL: Yes.

QUESTION: Is that on the record, or off the record?

THE ATTORNEY GENERAL: On the record.

QUESTION: The dialogue bit?

MR. MARSHALL: Could I say one other thing along

that line.

I think it shows the importance of the thinking of the problem in a particular city in terms of the specifics. The whole people can't just get anywhere if they just think that a lot of Negroes are raising Cain and that the Negroes can't get anywhere if they just think of the demonstrating without a purpose in mind. You have to think what do they want, and quite often, usually what they want is not at all unreasonable but is entirely justified, and when you think about it in those terms then it can be settled without great racial clash.

QUESTION: Could somebody explain to us in layman terms after this these two reconstruction statutes?

QUESTION: You can find them out there. They add up in very general terms to say it is a crime to violate people's constitutional rights. It is just about that vague.

MR. MARSHALL: The usual situation is this: That if a cop beats somebody up he is punished. A person can't be constitutionally punished by a cop. He has to be punished by a court. The court tries him for what he did and the cops beat him up, that violates his constitutional rights.

QUESTION: What about sessions called by Mr. Dolan, and so forth, to help you down there?

Very often efforts were made at getting in touch with people.

MR. MARSHALL: They were helpful.

QUESTION: Did you express Dick Gregory's charges?

MR. MARSHALL: Yes.

QUESTION: What was the largest attendance at any meeting down there?

MR. MARSHALL: About 60.

... Recessed at 7:35 p.m. ...

FOR IMMEDIATE RELEASE      MAY 12, 1963

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am deeply concerned about the events which occurred in Birmingham, Alabama last night. The home of Reverend A. D. King was bombed and badly damaged. Shortly thereafter, the A. G. Gaston Hotel was also bombed. These occurrences led to rioting, personal injury, property damage and various reports of violence and brutality.

This Government will do whatever must be done to preserve order, to protect the lives of its citizens, and to uphold the law of the land.

I am certain that the vast majority of the citizens of Birmingham, both White and Negro, particularly those who labored so hard to achieve the peaceful, constructive settlement of last week can feel nothing but dismay at the efforts of those who would replace conciliation and good will with violence and hate.

The Birmingham agreement was and is a fair and just accord. It recognized the fundamental right of all citizens to be accorded equal treatment and opportunity. It was a tribute to the process of peaceful negotiation and to the good faith of both parties.

The Federal Government will not permit it to be sabotaged by a few extremists on either side who think they can defy both the law and the wishes of responsible citizens by inciting or inviting violence.

I call upon all the citizens of Birmingham, both Negro and White, to live up to the standards their responsible leaders set last week in reaching the agreement, to realize that violence only breeds more violence, and that good-will and good faith are most important now to restore the atmosphere in which last week's agreement can be carried out. There must be no repetition of last night's incidents by any group.

To make certain that this government is prepared to carry out its statutory and constitutional obligations,

Page - 2 -

I have ordered the following three initial steps:

First, I am sending Assistant Attorney General Burke Marshall back to Birmingham this evening to consult with local citizens. He will join Assistant Deputy Attorney General Joseph F. Dolan and other Justice Department officials who were sent to Birmingham this morning.

Two, I have instructed Secretary of Defense McNamara to alert units of the Armed Forces trained in riot control and to dispatch selected units to military bases in the vicinity of Birmingham.

Finally, I have directed that the necessary preliminary steps to calling the Alabama National Guard into Federal Service be taken now so that units of the Guard will be promptly available should their services be required.

It is my hope, however, that the citizens of Birmingham themselves will maintain standards of responsible conduct that will make outside intervention unnecessary and permit the city, the state, and the country to move ahead in protecting the lives and the interests of its citizens and the welfare of our country.

Thank you.

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# Department of Justice

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STATEMENT BY

ATTORNEY GENERAL ROBERT F. KENNEDY

May 3, 1963

We have been in contact with Negro and White leaders of Birmingham throughout the day..

Both the Negro and White communities of Birmingham know that very real and deep injustices have been inflicted on Negro citizens of that city for a long period of time. These demonstrations are the understandable expressions of resentment and hurt by people who have been the victims of abuse and deprivation of their most basic rights for many years. I believe that everyone understands that their just greivances must be resolved. Continued refusal to grant equal rights and opportunities to Negroes makes increasing turmoil inevitable.

However, the timing of the present demonstrations is open to question.

A new city government has recently been elected, and its right to office is now before the courts. The elected mayor, Mr. Boutwell, already has made clear his intention to resolve the difficulties facing the community.

School children participating in street demonstrations is a dangerous business. An injured, maimed or dead child is a price that none of us can afford to pay.

The grievances of the Negro residents of Birmingham or of any city, North or South, should be aired and the injustices to them should be removed. But I hope for the sake of everyone that this can be done in meetings, in good faith negotiations, and not in the streets.

At this moment, primary responsibility for peaceful solutions rests with the leaders of business, labor and the bar, as well as the city officials themselves.



## BROTHERHOOD, BUT . . .

## Question in Killing Is Why

By MARY McGRORY  
Star Staff Writer

BIRMINGHAM, Ala., Sept. 21.

—Among the many disastrous confrontations between black and white that have taken place in this city of racial disasters none is more baffling than that which occurred on the Sandusky highway last Sunday, the day of the church bombing.

Two 16-year-old Birmingham Eagle Scouts, riding on a motor scooter, passed two colored boys riding in the opposite direction on a bicycle. One of the Scouts took out a pistol and shot the 13-year-old colored boy who was sitting on the handlebars.

A preliminary hearing on first-degree murder charges was held in the Jefferson County Courthouse yesterday.

The question hung in the charged air of Judge Elias C. Watson's courtroom.

Why?

The two Scouts did not look like killers. They both appeared—as they sat pale and hangdog, handcuffed together on a bench—merely young for their years.

Michael Lee Farley, who drove the motor scooter, is

short for his age, almost baby-faced. Larry Joe Sims, accused of firing the two shots, has a scrawny neck, a receding chin and wide-set eyes. He is a straight-A student in high school. His teacher refused to believe it when told what he had done.

Surely their grieving parents, Mr. and Mrs. H. Glendon Sims and Mr. and Mrs. Louie Farley, offered no clue. They looked the picture of middle-class prosperity.

The pastor of the First Baptist Church which both boys attended, the Rev. A. H. Thorpe, said he did not know why it had happened.

"I feel like they were caught up in many things in Birmingham and across the country," he said. "I don't know they were ready when they were called on to make a major decision."

Had brotherhood been preached at the First Baptist Church?

"Yes," said Mr. Thorpe, "although of course never to the point of mixing."

The boys, who signed a confession of the crime, are known to have attended a school segre-

gationist rally and to have stopped by the National States Right Party headquarters to buy a 40 cent Confederate flag that Sunday.

The solicitor, Russell McDonald, said the meeting could not be blamed. "I checked there and found out they were told not to be violent and to go to their homes."

The parents of the dead boy, Virgil Ware, had no idea why it had happened.

The father is an unemployed miner, who up until three years ago worked at the Tennessee Coal and Iron Co. He wore a pink shirt and no tie. He and his wife, Lorraine, a youthful, stout woman whose angry tear-filled eyes were at variance with her non-committal utterance, naturally were on a separate bench from the parents of the boys accused of the murder of their son.

The citizens of Birmingham in the halls of justice quench their thirst from drinking fountains labeled "white" and "colored."

"I guess they just mean," said Virgil's father, shrugging.

The white parents and the  
See BIRMINGHAM, Page A-3

colored parents had nothing to say to each other. A reporter asked the pastor if the Simses and the Farleys had expressed sympathy to the parents of the Ware boy.

"They wanted to do something," said the pastor, "but the lawyers advised against it. They said anything that they would do would be twisted out of context by the NAACP."

The first witness, James Ware, jr., Virgil's elder brother, a husky 16-year-old in a flaming red shirt, was never asked why he thought his brother had been shot. He had a time grappling with the questions of the defense attorney, Rodrick Beddow, sr., one of Birmingham's leading criminal lawyers.

James was easily confused by Mr. Beddow's questions. But his testimony was, at several points, graphic.

When Virgil fell off the handlebars, James said to him, "Get up, Verge, you trimmin' me."

And Verge told him, "I can't get up, I'm shot."

The solicitor asked, "Had he ceased to breathe?"

James looked entirely blank.

"Was he dead?"

"Yes, sir, he was dead."

The second witness, Clark Robbins, 18, a crew-cut youth in shirt sleeves, gave answers so unintelligible at times that the judge at one point had to interpret for the defense attorney.

He had seen the boys with a

pistol. He was asked to identify it.

His blank face turned cold. "I don't have no dealin's with pistols," he said.

The defense attorney could not shake him on one important point. Larry Joe Sims on that violent Sabbath had told him, he said, "he believed he shot one of them in the legs."

It was perhaps the argument of the defense attorney that offered the afternoon's one moment of illumination. He had at one point groped for the name of the dead boy, gave it up, and said "this colored boy."

In his argument, he referred steadfastly to "this unfortunate accident." He never mentioned the name of Virgil Ware. He spoke of his clients, whom he said were "grieved."

"When a 16-year-old boy loses his appetite and can't sleep, he is haunted and he is almost prostrated and he has manifested much compunction of conscience. I couldn't in my wildest delirium or for one streamlined second believe a jury would, after hearing this evidence, sentence these boys to death . . . these two raw, grieved untutored boys who have had this unfortunate thing come into their lives at their age."

## Ball Is Denied

What the defense attorney seemed to be saying was that Virgil Ware was not a victim of white violence but, somehow by being colored, its agent.

Judge Watson apparently did not agree with this version of the affair. He denied ball, ordered the two Eagle Scouts held for the grand jury. Larry Joe Sims, who wore in his lapel the pin of the "For God and Country Award," put his head down on a lawbook and sobbed. Michael Lee Farley looked straight ahead.

NEW YORK TIMES  
SEP 20 1963

## Birmingham

'Look Away... Look Away,  
Look Away, Dixie Land'

By JAMES RESTON

BIRMINGHAM, Sept. 19—The striking thing about Birmingham to an outsider is that it seems so advanced industrially and so retarded politically. It has seized the scientific revolution and rejected the social revolution of our time. Accordingly, it is engaged in a remarkable and hazardous experiment: it is trying to back full speed into the future.

The visible and audible symbols of the city dramatize this paradox. It lies in a long valley surrounded by lovely flowering hills. Above the forest of smoking chimneys stands on a peak a vast stainless steel statue of Vulcan, like some hideous modernistic monster out of the German Ruhr.

Yet down below in the city the symbols are not of the fires of the future but of the fires of the past. The Confederate flag is painted on the cars and helmets of Gov. George Wallace's state troopers, now very much in evidence here, and the biggest clock in town booms out across the city from the tower of the Protective Life Insurance Company a few bars of "Dixie" before it strikes each hour.

Look to the industrial future, says the gleaming Vulcan. "Look away, look away, look away, Dixie Land," chimes the clock.

### The Historical Background

That Birmingham should have become the symbol of Southern defiance adds to the paradox, for it did not come out of the tradition of the old agrarian, slave-holding, plantation South. It was not even incorporated until December, 1871, in the decade after the War Between the States; it was populated from the North more than almost any Southern city, and its commercial and industrial ties now run to New York and Pittsburgh rather than to Atlanta or New Orleans.

Like most industrial cities it does have a tradition of putting private interests above public interests and it does have a history of violence. It was for many years an overgrown mining camp, populated by rough men from all sections of the country. Convict labor from the state prisons worked in the mines until the early 1920's, and National Guardsmen first went on strike patrol during the coal miners' walkout here in 1894.

Thus Birmingham is not like any other city in the country. Industrially it is ahead of much of the North; politically it is behind most of the urban South. It pays its Negroes better and in some ways treats them worse than most Southern towns, partly because it suffers from some of the worst aspects of both industrialization and segregation.

No generalization about Birmingham is safe, but its history does help suggest one possible explanation about the present attitude of many of its most influential leaders. This is not a city dominated by inherited wealth. More than in most Southern cities, Birmingham's commercial and industrial leaders are self-made men, with the self-made man's feeling that others can be just as successful too if they will only work.

Many white leaders here created their own fortunes, others are managers under pressure from Northern headquarters to produce the maximum at the minimum cost.

As human beings, they are probably no better or worse than business leaders in other cities, but there is something in the history and atmosphere of this place, some relationship between the idea of the supremacy of the dollar and the supremacy of the white man, that has made them feel they could hold out longer against social change.

It isn't that they wanted more than other white leaders in Atlanta and elsewhere, but merely that in this particular city they thought they could get away with demanding more.

### The Counter-Pressure

The result is that the leaders of Birmingham are trapped for the time being in the struggle. For the more they have delayed making concessions to Negro equality, the more the Federal Government has dramatized their dilemma, and the more the Negroes have demanded, and the more business the city has lost.

The death of the four Negro children in this week's bombing of a Negro church has merely brought all this to a head. It has shocked the community, but there is little evidence that it has changed the convictions of the white leaders about what they regard as the proper (separate) relations between the races.

They merely seem a little more convinced now that the continued uproar here is not good business, and Birmingham wants good business, even if it has to obey the Federal law to get it.

## FEAR IN BIRMINGHAM

# 'Big Mules' Shun Problem

By MARY McGRORY  
Star Staff Writer

BIRMINGHAM, Ala., Sept. 20.—One of the burghers of Birmingham, who did not not wish to have his name used, said, "four or five people could end this pretty quick. The steel mill, the banks, the power company. If the heads of them came out and said, 'cut this out,' it would end, no question."

Those four or five have not come out.

There is no sign they are about to.

Last spring, when racial disorder boiled in the streets, Burke Marshall of the Justice Department came here, took the power structure by the lapels and made it sit down with the Negro leaders of Birmingham, something that had never happened before in this rigidly segregated city.

The so-called "senior citizens" have since been reformed into the Community Affairs Committee, which consists of 200 white and 27 Negro citizens. Its biracial committee has met twice.

"We should be meeting 12 hours a day," said one of its members. "We haven't met since the bombing."

A lively Negro matron in a brilliant flowered hat who attended the funeral of three of the children killed in the dynamiting of the Sixteenth Street Baptist Church last Sunday, said, "not all the white people in Birmingham are bad. But the good ones

are afraid to speak up for us."

One voice spoke up for them this week. Charles Morgan, Jr., a stocky, fair-haired 33-year-old attorney, gave a speech at the Young Businessmen's Club on Sunday night and suggested that all of Birmingham had a share in the blame for the deaths of the children.

Birmingham has conspicuously not agreed with his indictment.

A number of rationalizations are being heard in the big houses on the hills outside of town where the "big mules," who run Birmingham but do not vote in it, live.

According to the nice people who contribute to the community fund, support the library, the art museum and the symphony, progress was being made until the demonstrations (which never would have happened without Martin Luther King) last spring, progress was being made until the bombing last Sunday. The bombing was the work of hoodlums. The big problem, according to them, is to find the killers.

### Real Problem Avoided

The real problem is not being discussed.

Mr. Morgan, who has received the threats always visited on anyone in Birmingham who suggests something is wrong in the established order, said, "This is not an American city. It is a farm club for Pittsburgh."

The Tennessee Coal and Iron Co., whose plant runs for 10 miles along the edge of the city, is part of the U. S. Steel Corp. It employs 25,000 of Birmingham's 678,000 residents. It is the largest private employer in Alabama, and its largest bank depositor. It is the greatest single factor in the economic life of Birmingham.

Its policies are set in Pittsburgh.

Arthur Welble, the president of Tennessee Coal and Iron, was a member of the Senior Citizens' Committee and is a member of the Community Action Committee.

"If Art Welble took the lead in this situation right now," says a banker friend, "he might have strike on his hands. The rank and file of the unions are rabid segregationists. Roger Blough (chairman of the board of U. S. Steel) could tell Art to sit down with Burke Marshall in May, but would he tell him to do something now that might close down the plant?"

Another pillar of the community disagreed. "Tennessee Coal and Iron wouldn't have a strike, not if everybody, the banks and the other mills and the power companies came in with him."

### Elements Lacking

Said an investment counselor, "Of course, we were shocked by the bombing. But some of us feel it would be unwise or undignified to say anything."

Charles Morgan, who wrote Birmingham's obituary Sunday night, said, "We cannot solve this without leadership and without debate."

There has not been either. The white citizens of Birmingham discuss their racial

See SOLUTION, Page A-3

Even Sidney Smyer, Jr., the business leader who last spring stood up alone among the hundred whites who negotiated with the Negroes, says, "Deep in my heart I don't think integration is the answer. I think somehow people have got to stand up and prove themselves. No title or court decree is going to make you different."

But the real measure of Birmingham's isolation from the rest of the world is that it does not understand that

the Negro revolution, which really started here, is going on. The overwhelming historical fact of the year 1953 has passed them by. If they do not understand that what happened in Birmingham changed the Negro mood,

that even the cowed Negroes of Birmingham, who comprise 40 per cent of its population, are disciplined and determined. They do not believe the Negroes mean it when they say, "All, here, now."

The demonstrations in Birmingham, which to the rest of the world meant fire hoses and dogs turned on marching people, Birmingham saw as Negroes throwing bottles and rocks at the forbearing police.

"If the lunatic fringe would leave us alone and Martin

Luther King would stay out of town, everything will be all right," said a professional man.

One prosperous moderate said it might have been a nice gesture to have a large turnout of white people at the funeral of three of the children, but, he said, "There's a battle going on between the local and national leadership. If we had gone to the funeral it would have meant we were supporting King and Shuttlesworth, and we couldn't do that."

Continued From Page A-1  
troubles in discreetly low tones, making sure first that nobody is around to overhear.

Mayor Albert Boutwell's solution has been to ask an audience with President Kennedy to tell him "the true story of Birmingham." The true story, according to some thoroughly frightened inhabitants, is that these troubles may culminate in a race riot.

The majority of the white citizens of Birmingham are profoundly, emotionally, religiously segregationists. It is a moral problem for them, the moral obligation being to prevent intermarriage.

SEPTEMBER 19, 1963

WASHINGTON EVENING STAR

## SADNESS IN BIRMINGHAM

# Funeral Fails to Close Void

By MARY McGRORY  
Star Staff Writer

BIRMINGHAM, Ala., Sept.

19.—An elderly Negro woman dressed in black sat fanning herself in the jammed and suffocating interior of the Sixth Avenue Baptist Church.

"Seems like those children had to die," she said heavily. "Seems like those children had to die so something could be changed."

She was one of hundreds who had come to the funeral of three of the four children who were killed when a bomb blasted a Baptist church on the other side of town last Sunday. The church is opposite the Kelly-Ingram Park where the Negroes marched against the dogs and firehoses of the Alabama police last spring.

### Rocked the World

The church where the demonstrators gathered for songs and courage before they walked is today a shambles. The Sunday school floor is carpeted with splintered glass. The blackboard with the day's text lettered in yellow chalk stands at a crazy angle amid the disordered chairs. It is a line from Genesis: "I do set my bow in the cloud, and it shall be for a token of a covenant between me and the earth."

That Sabbath explosion which rocked the world seems to be regarded in Birmingham as just another bombing. Dynamite has be-

Birmingham School Boycott Eases in  
Wake of Bombing. Page A-6

come a principal means of political expression in this strange, sick city, which even now shows no disposition to mend its rigid ways.

If the citizens of Birmingham shared the country's shock and outrage at Sunday's occurrence, they did not employ the familiar expression of appearing at the funeral of the victims. A single white city councillor and the executive assistant of the mayor went to Tuesday's funeral for Carole Robertson.

### Burst Into Tears

A score of white clergymen from the three principal denominations marched behind the caskets of Carol McNair, age 12, Addie Mae Collins, 14, and Cynthia Wesley, 14, yesterday. Dr. Eugene Carson Blake led a delegation of ministers from the World Council of Churches.

The city's officialdom was represented by two clumps of police, State and city, stationed several blocks distant on either side of the church. The streets were crowded with Negro mourners.

"It seems like they are shrouded in sadness," said a Negro minister watching them.

The weeping families were led in by a minister intoning the words, "I am the resur-

rection and the life, says the Lord."

At the sight of them, the congregation burst into tears and several members of the choir covered their faces with their hands while they sobbed.

The white pastor of St. Paul's Lutheran Church, the Rev. Joseph Eliwanger, read the Scripture and prayed that the Kingdom of God would come to the city of Birmingham, a process which if it has been initiated, is not yet visible to earthly eyes.

It was Dr. Martin Luther King, the leader of the Birmingham demonstrations that were the Concord and Lexington of the Negro revolution, who brought some meaning to the engulfing grief.

"Unoffending, innocent, beautiful children of God," he called them. "Heroines of a modern crusade."

"They have something to say to every minister of the Gospel who has remained  
See FUNERAL, Page A-6

silent behind the sanctuary of the stained glass windows," he said. "They have something to say to every politician who has fed his constituents with the poisoned bread of hatred and the spoiled meat of racism; they have something to say to the Federal Government which has compromised; they have something to say to every Negro who has passively accepted the evil of segregation. . . . We must be concerned not merely with finding those who murdered them but about the system, the philosophy and the way of life which produced the murderer. . . . They did not die in vain."

As he spoke, the strains of "We Shall Overcome," civil rights hymn, floated through the windows from the crowd outside.

### Angry Crowd Looks On

Several women became hysterical and were led away. One was shrieking, "Help me, Lord."

When the service was over, the classmates of the three children, dressed in white, walked down the steep side staircase bearing flowers. The caskets were laboriously brought down while the angry crowd looked on.

"Where are we safe?" asked one man standing with his children. "Not in our homes, not in school, now not even in church."

As the funeral cars moved away the crowd suddenly converged in the middle of the street. They began to sing in ever-louder chorus, "We Shall Overcome." They sang verse after verse. Three

small American flags were waved.

A young man in the overalls of the Student Non-Violent Co-ordinating Committee, the most militant of the Negro groups, shouted, "Let's go."

The crowd fell in behind him singing and they walked two blocks west, then set up clapping and singing, "Nobody's gonna turn me round, keep on talking, keep on walking, marching up to freedom land."

### Not for Demonstrating

James Lay, the Negro civil defense worker who quelled a riot after a bombing last May, limped toward them.

"Please do not demonstrate, this is a funeral occasion, not a demonstrating occasion. I beg you to stop at the request of Martin Luther King."

The crowd stopped, then regrouped and walked past the church. They went two blocks in the other direction singing, "Nobody's gonna turn me round."

James Lay hurried after them. "Please get up on the sidewalk. This is a day of prayer, not of marching. Respect the family. Martin Luther King does not want you to march."

Gradually, the singing subsided, the marchers dispersed. A State trooper, hat cocked over one ear, a shotgun slung over his arm, a pistol on his hip, watched them go away.

Across the street, the only person who remained was an old Negro woman, on whose lined face were etched the sorrows of her race, leaning against a lamp post. The old woman and the State trooper faced each other across a void that Birmingham, even now, has made no move to close.

SEP 18 1963

## Birmingham

### The Crisis of Lawlessness in Alabama

By JAMES RESTON

BIRMINGHAM, Ala., Sept. 17—The crisis in Birmingham now is not only between white and black, and between state law and Federal law, but between order and anarchy.

Both races are now at the mercy of a few hoodlums. The city is calm today, with the sun shining and the electrical church bells ringing out the old hymns, but nobody knows what may happen in an hour.

In this sense, at least, everybody has something in common because everybody is isolated. The white leaders who put Governor Wallace in office cannot be sure that his authority will protect them. The Negro leaders, who have been preaching patience, cannot be sure after the church bombing of last Sunday that their people will follow them.

This is what happens when the leaders of a community think law can be unequally applied to protect them and not to protect their fellow citizens. Eventually, others act on their own impulses, and everybody is left with his own fears and suspicions.

#### The Consequences of Fear

What was destroyed in the bombing Sunday of the 16th Street Baptist Church here was not only the lives of four Negro children, but the confidence of the whole community in law and order.

The Negroes now feel that they have to protect themselves. On "Dynamite Hill," an area of about 15 square blocks, they have established their own community protective organization, with their own weapons, observation posts and communications system, to watch for potential bombers.

Only a few days ago the Rev. Fred L. Shuttlesworth, a leader of the Negro community here, was calling off demonstrations, talking about the progress being made at the Birmingham lunch counters and exhorting his flock to "be cool, stay sober, avoid crowds, and don't carry guns or knives."

But today he was saying that the Federal Government must declare an emergency and "take over Birmingham." Instead of praising the work of the city's biracial committee, he was denouncing it as a "fraud," and instead of opposing demonstrations, he was calling for a massive march on the state capital that would force the Federal Government to come in and protect his people.

#### Night Riders

Even the white community no longer feels quite secure. The two Jewish temples in Birmingham are watched night and day against attack. Employees at the hotels where the Yankee reporters live wonder out loud when the bombers will get around to them, and even the local newspapers, which have recently been critical of the extreme segregationists, are not safe from the night riders.

Without common purposes or confidence in either Governor Wallace or President Kennedy, fear and rumor abound. The Negro leaders here have no confidence in the local police and are openly suspicious of Governor Wallace's state troopers. They even speculate on the possibility that Wallace's men themselves may have been responsible for the bombings.

Some white leaders raise precisely the opposite possibility—namely, that Negroes dynamited their own churches in order to put the white community on the spot. Until last weekend, they noted in support of this thesis that "nobody was ever hurt" in these bombings—an argument that seems even less plausible since the casualties of last Sunday.

In this atmosphere of ugly suspicion, the situation here is in some ways worse than it was during the crisis of last May. Since then admittedly some progress has been made. A few lunch counters and sanitary facilities have been desegregated, the newspapers have urged at least a decent respect for Federal law, there has been some communication between Negro and white leaders, and a more liberal but weaker municipal government has taken over.

#### Broken Promises

But the Negro leaders feel that even the token compromises of early summer have not been honored. No real improvement has been made, they assert, in the employment of Negroes in the stores and elsewhere, and meanwhile Governor Wallace has been so aggressively segregationist that he has incited the bombers and diverted the municipal government from the task of desegregation.

Paradoxically, both white and Negro leaders agree on denouncing the bombings but are far apart on who is responsible. When Justice Department officials arrived here after the death of the four Negro children, they felt that the white leaders of Birmingham were not so concerned about finding the bombers as they were about protecting themselves against the possibility of a counterattack by the Negro community.

In short, both races deplore violence and the tyranny of the lawless minority. They agree in theory with what Dr. Martin Luther King Jr. said here last night—that if both sides take an eye-for-an-eye philosophy "they will both end up blind." But the tragedy is that they cannot agree on any way of cooperating to protect the community as a whole.

# Rule of Law Threatened by Attitude of Some Lawyers Who Oppose Supreme Court Decisions

Decisions of High Court Are Still Law of the Land

By EDWARD F. WOODS  
A Washington Correspondent  
of the Post-Dispatch

WASHINGTON, Oct. 5

NOT LONG AGO, as the school desegregation crisis in Alabama was hardening into tragic killings, a little-noted but now-remembered observation was made that "the question is not now of approval or disapproval of the law but whether the law and order and educational practices will prevail over violence."

This simple, but impact-laden pronouncement came not from President Kennedy, Chief Justice Earl Warren or Martin Luther King.

Its author was United States Circuit Court Judge Walter P. Gwin, an Alabama-born-and-reared jurist, thoroughly schooled in the rigid traditions and social concepts of his region, but also wise in the law.

THE JUDGE'S statement was in the context of his flat rejection Sept. 6 at Tuscaloosa of a petition supported by Gov. George C. Wallace to block integration of Birmingham schools because violence might result.

Judge Gwin's rationale in the school case appears to be symptomatic of a trend in Southern courts at the federal level to recognize that the Supreme Court's decision striking down school desegregation now is the law of the land.

But there still are, a decade after the high tribunal's decree, some judges, many public officials and a sizeable body of lawyers who are—as Attorney General Robert F. Kennedy states it—placing "the sanctity of the law in jeopardy" and "distorting basic legal principles in their efforts to obstruct the law and court orders."

Even as the Attorney General was chiding lawyers, on the bench and off, in a speech to the Missouri Bar Association Sept. 27, for refusal to meet what he called "crisis in the legal profession," a critical situation was being met forthrightly by a group of lawyers in Birmingham.

AND OVER last weekend, these 53 attorneys, most of them young and eager to see their state out from under the cloud of disorder and strife, defied the temper of the community and affixed their signatures to a declaration of principles embracing, in effect, the Attorney General's denunciation of lawyers using dilatory tactics to frustrate the cause of justice.

The statement of the Birmingham lawyers went directly to the heart of the problem as discussed by the Attorney General at Kansas City.

"The Supreme Court of the United States is the highest in our judicial system and its decisions upon



Associated Press Wirephoto

## The Court Displeases

Picket carrying a sign "Impeach Earl Warren" greeted the Chief Justice of the United States before a speech in San Francisco recently. Court members have departed from their traditional silence to speak out against increasing disrespect for the law.

made." And Chief Justice Warren, who has borne the brunt of criticism for most of the decisions in the civil rights field, suggests that it is not the Court but "the times in which we are living" that cause controversy over the tribunal.

Attorney General Kennedy, in his discussion at Kansas City, specifically excluded members of the Missouri bar from his criticism, but he left no doubt about the identity of some who were his targets, namely, Gov. Wallace, Gov. Ross Barnett of Mississippi, John C. Satterfield, former president of the American Bar Association, and U. S. District Court Judge Frank M. Scarlett of Georgia.

It is proper to say the Attorney General said persons were disoriented in the fight against desegregation.

It is proper to say every legal mind must test the validity of a law.

A court decision is bad

only on persons who are a party to it, and

(3) A rule of law made by a court should always be open to re-examination because it may be overturned.

DRAWING the attorney general's fire were those in the legal profession who contend that the supreme court school desegregation decisions are not the law of the land but binding only on certain school boards and will not apply universally and tested in every school district and every state in separate cases.

Lawyers may be excused for being confused by this kind of reasoning in the attorney general's view.

"But to lawyers, it smacks of duplicity," he contends. "When it comes from the mouths of lawyers to other lawyers, we must recognize it as professionally irresponsible. And when it comes from the mouths of public officials, we must recognize it as demagoguery."

Obviously anticipating the argument that if civil rights groups had not persisted at whacking away at the Supreme Court ruling of 1896, upholding the doctrine of separate but equal facilities for Negroes, there would have been no Supreme Court school decision a decade ago upsetting the rule, Kennedy observes that "that reversal had been widely expected through several generations of legal thought" and "the whole pattern of American and world history pointed to abolishment of the 'separate but equal' concept."

THE SUPREME COURT ruling in the school desegregation cases was, as Kennedy points out, a unanimous one and since 1954 there have been six vacancies on the high court, meaning that by now a total of 15 justices have endorsed it, and it clearly is a decision that a majority of the American people hold to be morally correct.

# ISSUE IN RIGHTS DEBATE

## Reliance on 14th Amendment or Commerce Clause In Public Accommodations Section Is Examined

By ANTHONY LEWIS

Special to The New York Times

WASHINGTON, July 13—It is perhaps no surprise that Senators and law professors do not always think alike. But the gulf between them can hardly ever have been more evident than in the early skirmishes over the Administration's proposed civil rights legislation.

The Senate Commerce Committee has now held two weeks of hearings on the bill to outlaw racial discrimination in restaurants, hotels and other places of public accommodation—the heart of the Kennedy package. Much of the Senatorial discussion has been heavily legal.

There has been talk of the Constitution's commerce clause and the 14th Amendment as alternative bases for the legislation. Senators have expressed obviously sincere doubts about the legal and moral appropriateness of the Administration's primary reliance on the commerce clause and they have raised other legal questions.

### Some Puzzled

So far as can be told, the Senatorial concerns find little significant echo among students of constitutional law. Those law professors and others expert in the field who have expressed themselves have mostly supported the approach taken by the Administration. Some have indicated actual bewilderment at the legal arguments heard on Capitol Hill.

Some Senators (though not others) would admit they are not experts on constitutional law. But there is more to the situation than that. The legal doubts voiced on Capitol Hill reflect deeper concerns—concerns of policy. And as to those, legislators, not law professors, have the last word.

It may be useful, therefore, to clear away some of the legal underbrush now impeding rational consideration of the public accommodations proposal. The bill may then be discussed on its merits, as a matter of policy.

### Precedents

One assertion heard at the Capitol is that it is novel and awkward to use the Federal Government's power over interstate commerce for a social or moral rather than an economic purpose. This is a proposition astonishing to anyone familiar with Congress's past use of the commerce clause.

As long ago as 1910 Congress invoked the clause to prohibit transportation of women across state lines for immoral purposes. Federal laws based on the commerce clause prohibit the sale of narcotics and the use of child labor. The social purpose in all these was surely stronger than the economic—as it was in the Landrum-Griffin Labor Reform Act of 1959, also based on the commerce power.

### "Lesser" Ground

Has Congress implied the legitimacy of local prostitution by confining the Mann Act to cases where state lines are crossed? Professor Wechsler wrote, "Congress endorses nothing by confining its action to the areas committed to its governance by the provisions of the Constitution."

Some Senators, notably John Sherman Cooper, liberal Republican of Kentucky, have argued that the commerce clause is a "lesser" or "lower" ground on which to base the public accommodations law than the 14th Amendment. The reasoning is that the amendment was adopted after the Civil War for the specific purpose of protecting the rights of the former slaves.

The difficulty, legally, is that the 14th Amendment says: "No state shall . . ." It deals, in

short, with official, not purely private discrimination. It was on that basis that the Supreme Court in 1883 held unconstitutional a Congressional statute outlawing racial discrimination by private businesses.

To meet the difficulty Senator Cooper proposes in a bill of his to cover businesses licensed by a state. The legal theory is that licensing converts the private enterprise into an arm of the state, within the coverage of the 14th Amendment.

### Supreme Court

But that theory, Professor Wechsler pointed out, has had no support from the Supreme Court except in some recent opinions by Justice William O. Douglas. The failure of Justice Douglas's colleagues to accept the view is at least suggestive.

Moreover, making a Federal law depend on what businesses each state happened to license would produce grotesquely



Fletcher in The Sioux City Journal  
"Century" plant.

arbitrary situations. Businesses on either side of a state line would be treated differently. Some Southern states would doubtless repeal all licensing requirements.

Finally, it is ironic that some

### Far-Reaching Power

The commerce power has reached this far and farther before, down to grain fed by a farmer to his own animals. Moreover, the Supreme Court for 25 years has upheld every Congressional invocation of the commerce powers without exception, and virtually without dissent.

Legal experts warn that to say that the Federal Government may regulate any institution licensed by a state would open a whole new field of Federal authority. Private schools, for example—licensed in every state—would then be subject to Federal anti-discrimination laws on the ground that licensing converts them, legally, into "the state."

Professor Paul A. Freund of the Harvard Law School, a revered figure in the constitutional law field, stated this week that it "would be unnecessary and unwise to rely on the 14th Amendment (for the public accommodations law) because of uncertainties regarding the scope of its application to private business." He endorsed reliance on the commerce clause.

Of course not all professors agree. Gerald Gunther of the Stanford Law School, for one, has made objection to the commerce approach. Others think it would be wise to rely on both the commerce clause and the 14th Amendment, the latter on a more sophisticated theory than that of licensing.

### Legal Doubts

The Administration's bill does in fact speak of the 14th Amendment as well as commerce. Its theory is that after all these years of state and local segregation laws, custom and usage it is foolish to speak of business discrimination as reflecting the mere private quirk of the owner. It is discrimination, the argument goes, fostered by state policy—and hence within Congress's power to condemn under the 14th Amendment.

It should be possible for men of good will to work out a legally acceptable bill relying in part on both constitutional bases. There are signs that members of the Commerce Committee from both parties want to do so, that their legal doubts have been the result in part of sincere confusion and some inadequate articulation by Administration witnesses.

### Bipartisan Agreement

Solid bipartisan agreement on the constitutional foundation is absolutely essential before any bill gets to the floor of either house. For the Southerners will be talking at length about the Constitution and will be ready to capitalize on any legal doubts or differences among Northern legislators.

Resolution of the various conflicts over the legal basis of the legislation will leave questions that are really more important: what should be the scope of the bill? Should some small or highly personal establishments, such as boarding houses, be exempted? Should the Justice Department be given enforcement powers? Should the whole issue be left to conciliation rather than law?

These and other questions of policy will remain no matter what the constitutional basis of a bill. They are not easy questions, and it will be close to a miracle if Northerners can reach the massive agreement on them needed to override Southern opposition. In comparison, the legal questions debated so far seem hollow.

## Today and Tomorrow... By Walter Lippmann

### The Negroes and the Nation

SUDDENLY, as it were, the struggle of the Negroes towards equality of status in American society has taken a sharp turn.

The demonstrations in Birmingham have proved to be something more than the work of outsiders playing upon the imaginary grievances of otherwise docile and



Lippmann

contented masses. Nobody can now doubt that the grievances are genuine and are deep under the rule of such men as Bull Connor and Governor Wallace. And nobody can have any doubt either that the new generation of American Negroes are shedding the mentality of slaves and that they will not accept quietly an imposed inferiority in education, in jobs, in housing, and in the public facilities.

FOR A HUNDRED years since Lincoln freed the slaves, this country has relied upon the education of the Negroes and the persuasion of the whites to bring about that equality of status to which it is committed. We are now realizing that the present rate of change will not be fast enough. The redress of the grievances of the Negroes is for the new generation too slow in coming. History teaches us that when this point is reached in the struggle for what men regard as their just rights a revolutionary condition exists.

Then the supreme questions are posed. Will the ruling and privileged classes take command of the coming changes? Or will they cling to their privileges and become

the immovable object in collision with an irresistible force?

THE WHITE PEOPLE of this country, not only the white people of Alabama and Mississippi, are now at that crucial point where they must answer those questions. They must choose, on the one hand, between leading the movement towards equality of status and, on the other hand, standing aside and letting matters be decided by collisions between the Negro agitators and the Bull Connors.

The Negro rebellion is now led by men like Martin Luther King who preach and practice the Gandhian doctrine of non-violence. It is a difficult doctrine in any country, and this is a rather violent country. The doctrine worked effectively in British India. But there the ruling power was under the restraint of the long British habit of constitutionalism.

WE CANNOT count upon non-violence persisting in the face of brutal and illiterate resistance. The outstanding danger is not that there may be rioting and brawling. For these can be suppressed. The outstanding danger is a loss of confidence by the Negro people in the good faith of the white people. This is where the turning point lies at the present time.

If confidence is lost that there is a legitimate remedy for genuine grievances, there will be lost at the same time confidence in the doctrine of non-violence. What will come after that it is unpleasant to contemplate.

But those among us who are capable of learning from history will do well to remember what happened in Ireland and what happened in Palestine before the grievances of the Irish and of the

Jews were redressed, and also to reflect on what is boiling under the surface in those parts of Africa where black inferiority is imposed.

THE TIME has come when there must be a change in the American policy as it was laid down under Eisenhower and continued under Kennedy. This is the policy of leaving desegregation, which is a national commitment, to the conflict between private law suits and local authorities. The cause of desegregation must cease to be a Negro movement, blessed by white politicians from the Northern states. It must become a national movement to enforce national laws, led and directed by the National Government.

I think this is the direction in which the President and his brother, the Attorney General, are now moving. They should move directly and boldly and take command of a cause which cannot now be left to irresponsible people. If it is still possible, and I think it is, to hold and even to recover the confidence of the Negroes in the good faith of the whites, then this is the basic principle by which to do it. It is to make plain by word and deed that the Negroes are no longer a weak and isolated minority trying to push the Nation into doing what the national law and American principles require it to do.

THEN, because the national power is behind the movement towards equality of status, that national power, which will be more than sufficient, can be exercised without violence, with wisdom, and with restraint. For it is the very weak rebels who feel that they must resort to the extreme measures.



**JET EXCLUSIVE**

**ATTY. GEN. KENNEDY EXPLAINS**

By SIMEON BOOKER, JET Washington Bureau Chief

Of the new frontiersmen, Atty. Gen. Robert Kennedy has been the civil rights symbol to American Negroes. Recently, the Attorney General appeared before a House Judiciary Committee and urged that a proposed civil rights bill be changed to improve the bill's chance of passage. The Attorney General has been bitterly attacked by some areas of Negro leadership. To give the Cabinet member a chance to explain his position, JET submitted the following questions to him with the understanding that upon publication there would be no changes or revision of his answers.

**JET—***As the Attorney General, you have become a civil rights symbol to American Negroes. You have been more aggressive in attempting to win rights for us than any other Attorney General in history. With such a record, why would you take the leadership in asking for a weaker civil rights bill?*

**RFK—**It is misleading to discuss the civil rights bill in terms of "strong" and "forthright." The Rev. King said it would go a "long, long way toward the realization of the ideals of freedom and justice for all people." Other Negro leaders, such as Roy Wilkins, praised the bill as the strongest civil rights measure ever submitted. One reason we have opposed the Sub-committee's proposal is that it would seriously weaken the voting provisions of the President's bill. But the debate should not be about the relative strength of the proposals but about their relative chances for passage. The Administration is attempting to write a strong civil rights bill striking at discrimination in voting, public accommodations, public facilities, schools, jobs and Federal programs. The Administration wants a bill which will cover all those areas and still win support from enough Republicans and Democrats so that it can be enacted into law. It is our deeply considered view that the Sub-committee's bill cannot obtain such support and I do not know of any member of the leadership conference on civil rights

## POSITION ON CIVIL RIGHTS

who claims that it can be enacted into law. Time is of the essence and a bill more like that proposed by the Administration has a much better chance of being enacted.

*JET—What was your reasoning for not applying protection for Negroes to vote in local and state elections?*

**RFK**—This is an example of the misunderstandings that have arisen about the Administration's position. The President's bill will cover state elections. One section of the voting provision—that dealing with literacy tests—was confined to federal elections so as not to raise constitutional doubts and arguments. The President's proposal would effectively attack discrimination in voting, both at the federal and state level.

*JET—Perhaps, the biggest setback was your decision to give up the fight for Title III which would have permitted your department to enter brutality, bombing, and intimidation cases in the South. Why did you give up this effort?*

**RFK**—We never asked for Title III authority. Our position has been consistent from the outset. The Department of Justice already has power to investigate police brutality, bombing and intimidation cases, and has done so repeatedly. Since I have been Attorney General, the Department has brought criminal charges against 44 police officers for asserted misuse of their authority to deny individuals civil rights. We overturned a long standing department policy against filing information in civil rights cases—a procedure which avoids the use of possibly prejudiced local grand juries. The problem is to eliminate discrimination. That is the purpose of the demonstrations, also that is what all of us are seeking. Title III would not accomplish this. Title III would give injunctive power to the Attorney General to deal with violence and police brutality. It would not add to the Justice Department's authority to prevent bombings in Birmingham or any other city. This is another example of misunderstanding

### **RFK: 'Can't Replace Local With National Police'**

of the issues. It is a mistake to assume that bombings or isolated acts of brutality by individual police officers can be stopped by injunctions. Injunctions can't prevent crimes by unknown persons.

Another questionable assumption which Title III raises is that Federal court injunction could eliminate or, at least, curtail some official opposition to racial demonstrations, and the abuses that such opposition at times creates. Furthermore, if injunctions were obtained against local police, one result might be that state and local authorities would abdicate their law enforcement responsibilities. We can't replace local police with national police.

*JET—By withdrawing this section, doesn't it appear that the government is more interested in allowing Negroes to enter public places, as a means of stopping demonstrations, than it is in guaranteeing Negroes the right to vote in the South?*

**RFK**—This question represents another misunderstanding of the issues involved. Title III does not have anything to do with guaranteeing the Negroes the right to vote. The Department already has authority to move against discrimination in voting and has done so in more than 100 counties in the South since I have been Attorney General. The Administration's bill would speed the process. The subcommittee's proposal would weaken the government's ability to end discrimination in voting and that is one of the many reasons why we have opposed it.

*JET—In the event of passage of the legislation, as recommended by you and the President, what then will be the unresolved civil rights problems of the nation? Do you feel your bill will greatly expand the opportunities for Negroes in America?*

**RFK**—The legislation will provide legal remedies in the field of voting, education, employment and public accommodations. But it will not solve the basic problems of poverty and unemployment. Education, housing and employment will remain as the great unresolved civil rights

problems and really problems for all Americans. The bill will be a major step in expanding opportunities for Negroes in America, but we still will have a long way to go. I think education and a revitalized economy are the keys.

*JET—Do you have a change of heart, or a change of feelings in regard to civil rights compared to when you first took office? Would you explain?*

**RFK**—I said in my statement before the House Judiciary Committee two weeks ago: "The legal remedies concern every American's right to vote, to go to school, to acquire a job and to be served in a public place.

"But the legislation embodies even more than legal remedies. And I believe this may be its most significant contribution. For this legislation has become an article of faith, testing whether white Americans can put aside sectional and political differences to solve racial problems which can no longer be ignored.

It is a test in the fullest sense of the term—a test which will determine in the eyes of the non-white population here in the United States and indeed abroad whether the white population, which controls the economy and the political life of this country, believes in the Declaration of Independence and the Constitution, or just mouths the hallowed words of these two documents. This is a national crisis which demands that we put aside partisan considerations. This represents my point of view.

*JET—Do you feel certain aspects of Negro leadership have been unreasonable in demands for civil rights for legislation? Is there a compromise stage between the Administration, the law-making body and civil rights groups? Who wins and who loses?*

**RFK**—I think Negro and white leaders all have the same interest—obtaining a strong, meaningful, civil rights program which will further the interests of the citizens of this country and remedy the injustices to which many of our people have been subjected. Reasonable men may disagree, as to the best way to achieve this goal, but if an effective civil rights bill is not enacted, the whole country—not just the Negroes will be the loser.

## **Strong Civil Rights Bill Will Help End Demonstrations**

**JFK**—Do you regard Dr. M. L. King Jr. as an agitator?

**RFK**—He is "agitating" for equal rights and equal opportunity for all citizens. If that is being an "agitator," I guess he is.

**JFK**—The Justice Department has some 300 guards protecting underworld informer Joseph Valachi. Isn't this incongruous when you stop to think that Negroes are beaten in the South trying to vote—and have no hope of getting protection?

**RFK**—The Department doesn't have 300 guards protecting Joseph Valachi, or anywhere near that number. The Department has acted repeatedly to protect Negroes from harassment and physical injury while seeking to register to vote. Of the 47 voting suits filed so far, twelve have been brought to protect Negroes against intimidation. Federal authority was used to protect the freedom riders and to enforce court orders at the University of Mississippi and the University of Alabama. At the University of Mississippi where 29 marshals were wounded by gunfire and 150 were injured, marshals and soldiers remained on duty throughout the 1962-63 school term to prevent interference of court orders that James Meredith attend the university. It should be remembered that the Federal government called out 20,000 soldiers at Oxford, Miss., to insure the protection of the rights of just one of its citizens. Federal troops were sent to Alabama last May to prevent the Birmingham agreement from being sabotaged. This government will do whatever must be done to protect the lives of its citizens and to uphold the law of the land.

**JFK**—Voting is a channel for advancement for Negroes. Do you feel justice has done enough—quick enough—to make any real gains in the South?

**RFK**—When we came into the office, there had been ten voting suits filed throughout the South. Now the total is 47. We have investigations underway in more than 100 other counties. The principle that all citizens are entitled to vote without discrimination is being accepted in almost all parts of the South. In Montgomery, Ala.; in Macon

County, Ala.; in Heywood and Fayette Counties, Tenn.; East Carroll Parish, Louisiana; and Baker County, Georgia, and counties throughout the South—Negroes are voting in accelerating numbers. Meanwhile, we have continued to give prime attention to this problem in other counties. We have suits pending which challenge discriminatory registration procedures in the entire states of Mississippi and Louisiana. Thousands of Negroes who couldn't vote before can vote now and the number is growing by the day. Every case requires a great deal of work and considerable time. The President's bill would provide for speeding of court action in voting suits. It is regrettable that there was no start to end discrimination in voting until 1960.

*JET—Do you regard race relations as worsening in the U. S. and the prospects of violence edging closer because of the widening orbit of demonstrations and unrest? How can the government cope with such a situation? And should Negroes temper their campaign?*

**RFK**—A strong civil rights bill will go a long way to remove the causes of demonstrations. The present situation is a test of the ability of Negroes and whites to make progress in resolving racial problems within a framework of law and justice. Demonstrations are understandable, particularly where there is no other way of attracting attention to long-standing grievances. But unreasoned demonstrations lead to violence, widen the difference between whites and Negroes and increase mistrust on both sides.

*JET—How do you regard conditions in the South. Do you feel there is an improvement in Negro rights?*

**RFK**—I think it is a mistake to talk about the South as though it were a single anti-Negro, anti-civil-rights unit. There are places throughout the South where leaders and citizens understand their responsibilities to all citizens. For example, in the past five months, since the President held a series of White House meetings, 361 Southern cities have voluntarily desegregated at least some of their restaurants, hotels or similar public accommodations. That is

Again, we have sought abandonment of segregation through negotiation first. The Department of Justice and the Department of Health, Education and Welfare have succeeded in obtaining voluntary desegregation, without going to court, in several districts and other negotiations or field surveys are underway in approximately 120 districts. Additional inquiries are scheduled for the coming months.

Negotiating efforts failed, however, in Prince George County, Virginia, which educates children of defense personnel stationed at nearby Fort Lee, and we filed suit. Four similar suits were filed last week regarding segregation in Huntsville and Mobile, Alabama; Gulfport and Biloxi, Mississippi; and Bossier Parish, Louisiana.

In another kind of school case, also in Louisiana, the Department brought a contempt action against state education officials for failing to desegregate a state trade school, as had been ordered by a federal court in a private suit. When the State Board of Education passed a formal resolution stating there would be no racial discrimination as to race, the Department agreed to dismissal of the case, but withheld the right to inspect the school records.

The Department also took action in Prince Edward County, Virginia -- the only county in the nation where there are no public schools. They have been closed since fall, 1959, in order to avoid court desegregation orders. That nearly 1,500 of the 1,800 school-age Negro children in the county should have had no education in more than three years is a disgrace to our country. Last month, we asked the Court of Appeals for the Fourth Circuit, as a friend of the court, to order the schools opened promptly without racial segregation.

#### EMPLOYMENT

The Department has continued its policy of seeking out qualified personnel on the basis of ability and irrespective of race. Negroes are not denied employment because of their race. Neither are they hired because of their race. They, like all our employees, are selected on the basis of ability and merit. This policy has resulted in notable gains for Negroes in the offices of United States Attorneys and Marshals in the nation's 92 judicial districts.

Of the approximately 350 Assistant United States Attorneys appointed in this Administration, 32 are Negroes. Of these 32, 16 were appointed in 1962. Approximately 35 Negro Assistant United States Attorneys are now in service. Two Negro United States Attorneys were appointed last year. This year, the first Negro Assistant United States Attorneys were appointed in at least seven states, including Southern and border states.

Of the 114 Deputy United States Marshals appointed in this Administration, 14 are Negroes. Of these, 11 were appointed in 1962. Approximately 30 Negro Deputy Marshals are now in service. Luke C. Moore was appointed United States Marshal for the District of Columbia in the past year, the first Negro to hold that position in a century. As with Assistant U. S. Attorneys, appointments of Negro Deputy Marshals were made in several Southern and border states, where no one of their race had ever before served.

Improved hiring practices within the Department as a whole have resulted in continued gains for Negro attorneys. There were 10 Negro attorneys in the Department at the beginning of this Administration. Now there are more than 70, out of approximately 1,900 in the Department.

There have, as well, continued to be a number of Negroes appointed to distinguished positions in the Government, such as Homer L. Benson, appointed to the Board of Parole.

### OTHER AREAS

Albany, Georgia: The Department acted to the limit of its authority in Albany, where a series of mass protests by Negroes against segregation resulted in numerous arrests and civil rights complaints. All such complaints were speedily investigated by the FBI. Although no violation of federal law was found in most cases, prosecutive steps were taken where appropriate. In August, the Department filed a voting intimidation suit against 16 officials of nearby Sumter and Terrell counties and also filed a friend of the court brief in a suit brought in Albany. The brief asked the court to ignore the city's request for an injunction against demonstrations until the city first complied with the law and abandoned segregation. The two sets of arrests for church burnings in the area previously referred to were the result of FBI action. Throughout the Albany difficulties, the Department consulted with leaders on both sides in an effort to encourage an amicable resolution of the racial difficulties. All matters of dispute have now been brought before the federal court in Albany, and I have no doubt that the constitutional rights of all citizens of that city will be protected.

Sit-ins: In a friend of the court brief filed in October, the Department asked the Supreme Court of the United States to reverse convictions of more than 30 Negroes for sit-in violations in four states. The Department argued that states cannot arrest Negroes for trespass when the states themselves, by law and policies, foster the discrimination which led to the sit-ins.

Hospitals: In May, the Department sought to intervene in a private suit seeking the desegregation of two North Carolina hospitals which were built with federal Hill-Burton Act financial assistance. The Department asked the court to declare unconstitutional the separate-but-equal provision of the act. While the Department was permitted to intervene, the court subsequently dismissed the suit, filed by Negro doctors, dentists and patients. An appeal appears likely.

Employment Suit: Problems of racial discrimination are by no means peculiar to the South. The Department appeared as a friend of the court in an appeal to the Colorado Supreme Court by a Negro pilot who charged he was denied employment with an airline in violation of a state anti-discrimination law. The Colorado court denied the appeal, but the Supreme Court of the United States has agreed to review the case.

Police Brutality: During 1962, the Department brought 18 police brutality prosecutions, many of them in Northern states. These cases included one in Indiana where two Negro detectives were convicted of brutally beating a Negro defendant to coerce him to confess several crimes.

In summary, 1962 was a year of progress for the United States in the field of civil rights. This is not to say the problems are disappearing. They remain, and they remain difficult -- not only in the South, with



victims of school "resegregation", bias in housing, or employment, or other facets of society. Ugly incidents like the Mississippi riot may occur again.

But we are accelerating our progress. Again, let me say this acceleration occurs in large measure because of the emerging spirit of the South. In 1962 this spirit was not the brutal one of rioting and violence at the University of Mississippi. The spirit was that exemplified in Georgia last week by Governor Carl E. Sanders, in his inaugural address.

"We revere the past," he said. "We adhere to the values of respectability and responsibility which constitute our tradition." Then he added, "We believe in law and order and in the principle that all laws apply equally to all citizens."

Sincerely,

Attorney General

The President,  
The White House,  
Washington, D. C.

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